

Remarks

The preceding amendments and following remarks are submitted in response to the Official Action of the Examiner mailed April 15, 2003. Claims 1-25 remain pending, with claims 24-25 being newly presented. Reconsideration, examination and allowance of all pending claims are respectfully requested.

As a preliminary matter, Applicant submitted two supplemental IDSs, including one on April 29, 2003 and another on May 6, 2003. Applicant respectfully requests that the Examiner consider these references, and provide initialed copies of the FORM-1449's filed therewith in due course.

In paragraph 2 of the Office Action, the Examiner rejected claims 1-4, 6-7, 10-11, 13, 15-19 and 21-22 under 35 U.S.C. §102(b) as being anticipated by Gagne (U.S. Patent No. 5,499,170). Regarding claims 1, 11, 13 and 16, the Examiner states that Gagne suggest a lighting apparatus for receiving an elongated source having an elongated member including a first material (citing 82 in Fig. 1) and a second material (citing 55), wherein the first material is at least semi-transparent and the second material is substantially non-transparent. The Examiner also states that the elongated member of Gagne has a cavity (citing the cavity below 97 in Fig. 1) for receiving an elongated light (citing 90 in Fig. 1).

To provide further clarity, claim 1 has been amended to recite:

1. (Currently Amended) A lighting apparatus for receiving an elongated light source, comprising:
a monolithic an elongated member including a first material and a second material, the first material being at least semi-transparent and the second material being substantially non-transparent, the elongated member having a cavity for receiving the elongated light source, the cavity being at least partially defined by at least a portion of the first material that extends from the cavity to an outer surface of the elongated member.

As can be seen, claim 1 now recites a monolithic elongated member that includes both a first material and a second material, wherein the first material is at least semi-transparent and the second material is substantially non-transparent. Claim 1 also recites that the elongated member has a cavity for receiving the elongated light source, wherein the cavity is at least partially defined by at least a portion of the first material that extends from the cavity to an outer surface of the elongated member.

In contrast to claim 1, Gagne clearly suggests provides a two piece construction to form a cavity, wherein one piece (i.e. the protective cover 70) is transparent and the other (i.e. the receptacle 50) is not. Gagne goes to great lengths to shape the protective cover 70 and the receptacle 50 to provide a satisfactory water resistant interference fit therebetween, clearly suggesting a two-piece construction. The interference fit appears to be necessary for the installation of the lighting element 90, as well as the strip of transparent material 97 and flat electrical conductor 98, between the protective cover 70 and the receptacle 50. Clearly, Gagne provides no guidance on how a lighting track might be assembled if the protective cover 70 and the receptacle 50 were formed as a monolith.

Also, Gagne state that the protective cover 70 is preferably made from a clear and strong material such as polycarbonate (Gagne, column 4, lines 45-46), and the receptacle 50 is made from a soft pliable material such as SANTROPRENE™ (Gagne, column 3, lines 42-43). Gagne does not disclose, nor provide any motivation whatsoever, how to combine the polycarbonate material with the SANTROPRENE™ material in a monolith, and in fact, would appear to actually teach away from such a construction. For these and other reasons, claim 1 as amended is believed to be clearly patentable over Gagne. For similar and other reasons, dependent claims 2-4, 6-7, 10-11 are also believed to be clearly patentable over Gagne.

Specifically with respect to dependent claim 7:

7. (Currently Amended) A lighting apparatus according to claim 1 further comprising a slit that extends between from the cavity and the exterior to an outer surface of the elongated member to facilitate insertion and/or extraction of the elongated light source into/from the cavity along a length of the elongated member.

As can be seen, dependent claim 7 further recites a slit that extends between the cavity and the exterior of the elongated member - to facilitate insertion and/or extraction of the elongated light source into/from the cavity along a length of the elongated member. Gagne clearly does not disclose or suggest providing a slit that extends between the cavity and the exterior of the elongated member, and more particularly, to facilitate insertion and/or extraction of the elongated light source into/from the cavity along a length of the elongated member. The Examiner cites to reference numeral 62 in Figure 1 of Gagne as suggesting a slit. However, reference numeral 62 merely refers to the inner face of the respective first and second side walls of the receptacle 50 (see Gagne, column 4, lines 20-22). Nothing here suggests a slit that extends between the cavity and the exterior of the elongated member, as recited in claim 7. Thus, for these additional reasons, dependent claim 7 is also believed to be clearly patentable over Gagne.

Now turning to independent claim 13. Claim 13 has been amended to recite:

13. (Currently Amended) A lighting apparatus for receiving an elongated light source, comprising:
a first elongated piece;
a second elongated piece;
at least a portion of the first elongated piece being transparent or semi-transparent;
at least a portion of the second elongated piece being substantially non-transparent; ~~and~~
the first elongated piece and the second elongated piece defining a cavity for receiving the elongated light source; and
at least one of the first elongated piece and the second elongated piece having an elongated slit along at least part of its length that extends between the cavity and the exterior of the lighting apparatus, the slit adapted to facilitate insertion and/or extraction of the elongated light source into/from the cavity along

a length of the lighting apparatus.

As noted above with respect to claim 7, Gagne clearly does not suggest a slit that extends between the cavity and the exterior of the lighting apparatus. Thus, for those and other reasons, independent claim 13 and dependent claim 15 are believed to be clearly patentable over Gagne.

Now turning to independent claim 16. Claim 16 recites:

16. (Unchanged) A method for making an elongated member for receiving an elongated light source, the method comprising the steps of:
co-extruding an elongated member with a first material and a second material, the first material being at least semi-transparent and the second material being substantially non-transparent, the elongated member having a cavity for receiving the elongated light source, the cavity being at least partially defined by at least a portion of the first material that extends from the cavity to an outer surface of the elongated member.

First, Applicant notes that the Examiner did not provide any specific remarks with respect to claim 16. In any event, and after careful review, it is clear that Gagne does not disclose or suggest the step of co-extruding an elongated member with a first material and a second material, wherein the first material is at least semi-transparent and the second material is substantially non-transparent, and wherein the elongated member has a cavity for receiving the elongated light source, where the cavity is at least partially defined by at least a portion of the first material that extends from the cavity to an outer surface of the elongated member. Gagne does not even mention “co-extrusion”.

In addition, and as indicated above with respect to claim 1, Gagne clearly suggests providing a two piece construction, wherein one piece (i.e. the protective cover 70) is transparent and the other (i.e. the receptacle 50) is not. As noted above, Gagne goes to great lengths to shape the protective cover 70 and the receptacle 50 to provide a satisfactory water resistant interference fit therebetween, clearly suggesting a two-piece construction. The interference fit appears to be necessary for the

installation of the lighting element 90, as well as the strip of transparent material 97 and flat electrical conductor 98, between the protective cover 70 and the receptacle 50. Thus, for these and other reasons, claim 16 is believed to be clearly patentable over Gagne. For similar and other reasons, dependent claims 17-19 and 21-22 are also believed to be clearly patentable over Gagne. ***If the Examiner elects to maintain this rejection, the Applicant respectfully requests that the Examiner provide a specific citation to Gagne that discloses each and every element of claim 16.***

In paragraph 4 of the Office Action, the Examiner rejected claims 5 and 20 under 35 U.S.C. §103(a) as being unpatentable over Gagne (U.S. Patent No. 5,499,170) as applied to claims 1 and 16 above, and further in view of Hotta (U.S. Patent No. 5,711,592). For the same reasons given above with respect to independent claims 1 and 16, as well as other reasons, dependent claims 5 and 20 are also believed to be clearly patentable over Gagne in view of Hotta.

In paragraph 5 of the Office Action, the Examiner rejected claims 8 and 23 under 35 U.S.C. §103(a) as being unpatentable over Gagne (U.S. Patent No. 5,499,170) as applied to claims 1 and 16 above, and further in view of Chien (U.S. Patent No. 5,775,016). The Examiner acknowledges that Gagne fails to show or suggest that the portion of the first material extends to two or more separate outer surface regions of the elongated member. However, the Examiner states that Chien suggests several sections of illuminated areas (citing 17' in Fig. 6 of Chien). The Examiner concludes that it would have been obvious to one having ordinary skill in the art to divide Gagne's outer surface into two or more separate outer surface regions as suggested by Chien in order to provide several separate illuminating areas. For the same reasons discussed above with respect to independent claims 1 and 16, as well as other reasons, dependent claims 8 and 23 are also believed to be clearly patentable over Gagne in view of Chien.

In addition, however, it is clear that Chien does not disclose or suggest extending a portion of the first material (e.g. the at least semi-transparent material) that at least partially defines the cavity to two or more separate outer surface regions of the elongated member, wherein at least part of the outer surface between the two or more separate regions is substantially non-transparent. For example, Chien state:

FIGS. 15A and 15G show in greater detail the compound lighting element illustrated in FIGS. 1 and 3, including a background PL strip 13 through or on the surface of which extends the wiring 50 and 51 for EL strips 7-11 forming the letters of the word "EXIT" and an arrow, the combination of the EL and PL strips being sandwiched by clear sheets 52 and 53 of Mylar from which extend the terminals 54 and 55. This entire assembly may be placed, as shown in FIGS. 15B-15D, inside housings 4 and 4A of different shapes as required, either with (FIGS. 15B and 15C) or without (FIG. 15D) the addition of the Mylar protective layers 52 and 53. In addition, patterns other than the word exit and arrows may easily be added, such as the distance indicators 56 and/or floor designator 57

(Chien, column 6, line 64 through column 7, line 10). As can be seen, in Chien, the background PL strip 13 is placed through or on the surface of the EL strips. Accordingly, either clear sheets 52 and 53 or the housing 4 and 4A of Chien must correspond to the first material (e.g. the at least semi-transparent material) of claim 8. However, clear sheets 52 and 53 and housing 4 and 4A clearly lack a region on the outer surface that is substantially non-transparent between the two or more separate substantially transparent regions. For these and other reasons, claim 8 is believed to be clearly patentable over Gagne in view of Chien. For similar and other reasons, claim 23 is also believe to be clearly patentable over Gagne in view of Chien.

In paragraph 6 of the Office Action, the Examiner rejected claims 9 and 14 under 35 U.S.C. §103(a) as being unpatentable over Gagne (U.S. Patent No. 5,499,170) as applied to claims 1 and 13 above, and further in view of Stowe, Jr. (U.S. Patent No. 5,523,923). The Examiner states that

Gagne fails to suggest a first material and a second material that are integrally formed. However, the Examiner states that Stowe, Jr. suggests an integrally formed housing (citing Figure 3 of Stowe, Jr.). The Examiner concluded that it would have been obvious to one having ordinary skill in the art to modify Gagne's apparatus into an integrally formed apparatus as suggested by Stowe, Jr. in order to simplify the process of making the apparatus. For the same reasons given above with respect to independent claims 1 and 13, as well as other reasons, dependent claims 9 and 14 are believed to be clearly patentable over Gagne in view of Stowe, Jr.

In addition, however, it is clear that Stowe, Jr. does not suggest an integrally formed housing, at least one that includes both a first material and a second material, wherein the first material is at least semi-transparent and the second material is substantially non-transparent, as recited in claims 9 and 14. Further, Stowe, Jr. does not appear to suggest an elongated member that has a cavity for receiving the elongated light source, wherein the cavity is at least partially defined by at least a portion of the first material that extends from the cavity to an outer surface of the elongated member, as recited in claims 9 and 14. For example, Stowe, Jr. state:

The vehicle reflector illuminating system of the invention generally comprises an elongate frame or housing 26, having a base wall or bottom plate 28 and an integrally formed upstanding rear wall 30. A pair of end walls 32 are connected between the upstanding rear wall 30 and the bottom wall 28. The rear wall 30 and the base wall 28, along with the end walls 32, form a type of housing having an interior compartment 34 for receiving a pair of neon lamp sockets 36 at the opposite ends thereof. Furthermore, mounted within the sockets 36 is a conventional neon lamp 38. This lamp 38 serves as the light source forming part of the vehicle reflector illumination system of the invention.

(Emphasis Added)(Stowe, Jr., column 5, lines 1-12). As can be seen, it is the bottom plate 28 and the rear wall 30 of Stowe, Jr. that are integrally formed. However, both of these parts are simply part

of housing 26, which is likely blow molded or made by some other similar process. Notable, Stowe, Jr. state that the interior compartment 34 of the housing 26 receives a pair of neon lamp sockets 36, which are clearly not integrally formed with the housing 26. As can clearly be seen in Figure 4 of Stowe, Jr., screws or the like are shown securing the lamp sockets 36 to the bottom wall 28 of the housing 26.

Stowe, Jr. also state that the neon lamp 38 may be enclosed within a protective sheath 44, as best illustrated in Figures 5 and 6. The sheath is preferably a plastic material, such as a transparent polyethylene film or the like which may be wrapped about the lamp 38. In a more preferred embodiment, the sheath 44 is a type of circularly shaped envelope which fits around the lamp 38. Even more preferably, the sheath 44 should fit snugly about the lamp 44 and at least the end terminals of the lamp 38 (see Stowe, Jr., column 5, lines 34-43). As far as Applicant can tell, the only “transparent” material discussed by Stowe, Jr. is the transparent sheath 44, which is clearly not “integrally formed” with the housing 26. In fact, it would appear that, like Gagne, Stowe, Jr. suggest a two-piece construction with the transparent material separate from the non-transparent material. Thus, it is unclear why Stowe, Jr. would provide any motivation whatsoever to integrally form the protective cover 70 and the receptacle 50 of Gagne, as the Examiner suggests.

In addition, neither Gagne nor Stowe, Jr. appear to provide any guidance on how a lighting apparatus might be assembled if the transparent and substantially non-transparent portions were integrally formed. As such, absent the present specification, it is unclear why integrally forming the apparatus of Gagne would “simplify the process of making the apparatus”, as the Examiner suggests. For these and other reasons, dependent claims 9 and 14 are believed to be clearly patentable over Gagne in view of Stowe, Jr.

In paragraph 7 of the Office Action, the Examiner rejected claim 12 under 35 U.S.C. §103(a) as being unpatentable over Gagne (U.S. Patent No. 5,499,170) as applied to claim 1 above, and further in view of Johnson et al. (U.S. Patent No. 4,947,293). For the same reasons given above with respect to independent claim 1, dependent claim 12 is also believed to be clearly patentable over Gagne in view of Johnson et al.

Applicant has added newly presented claims 24-25. Newly Presented claim 24 is dependent from claim 1, and recites:

24. (Newly Presented) A lighting apparatus according to claim 1 wherein the elongated light source includes a glow-in-the-dark material.

The use of a glow-in-the-dark material is supported at, for example, page 12, line 15 of the present specification. For the same reasons discussed above with respect to claim 1, as well as other reasons, dependent claim 24 is believed to be clearly patentable over the cited art. Newly presented claim 25 recites:

25. (Newly Presented) An elongated bumper comprising:
an elongated bumper member, that, in cross-section, includes a glow-in-the-dark material and a substantially non-glow-in-the-dark material, the glow-in-the-dark material providing illumination along at least a major length of the elongated bumper member at night.

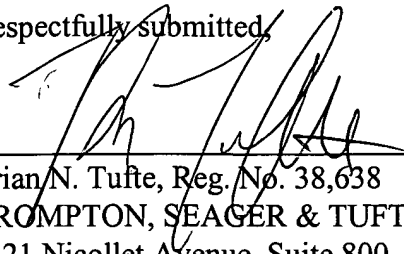
Claim 25 is also believed to be clearly patentable over the cited prior art.

In view of the foregoing, Applicant believes that all pending claims 1-25 are in condition for allowance. Reexamination and reconsideration are respectfully requested. If the Examiner believes it would be beneficial to discuss the application or its examination in any way, please call the

undersigned attorney at (612) 573-2002.

Respectfully submitted,

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